

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 02, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THOMAS ALEX MORRISON, JR.,

Defendant.

No. 1-21-CR-02032-SMJ-1

ORDER DENYING UNITED
STATES' MOTION FOR
DETENTION AND SETTING
CONDITIONS OF RELEASE

ECF No. 6

On Thursday, September 02, 2021, the Court conducted a detention hearing in accordance with 18 U.S.C. § 3142(f). With his consent, Defendant appeared by video from Yakima County Jail and was represented by Assistant Federal Defender Craig Webster. Assistant United States Attorney Michael Murphy represented the United States.

The Court considered the Pretrial Services Report (ECF No. 14) and counsels' arguments. To decide whether conditions of release would reasonably assure Defendant's appearance in court and the safety of the community, the Court considered and evaluated the four factors outlined in 18 U.S.C. § 3142(g):

ORDER DENYING UNITED STATES' MOTION FOR DETENTION AND
SETTING CONDITIONS OF RELEASE - 1

- 1 1. The nature and circumstances of the offense;
- 2 2. The weight of the evidence against the Defendant;
- 3 3. The history and characteristics of the Defendant; and
- 4 4. The nature and seriousness of the danger the Defendant would present to the
- 5 community if released.

6 Due to the nature of the charge(s), there is a rebuttable presumption of
7 detention in this case. Defendant is charged with two counts of aggravated sexual
8 abuse for conduct alleged to have occurred approximately ten years ago in relation
9 to two different individuals under the age of 12. The charges are serious.

10 The weight of the evidence is the least important factor and Defendant is
11 entitled to a presumption of innocence. The United States offers the Court no
12 information about the weight of the evidence, and this Court, therefore, makes no
13 findings as to this factor.

14 As to his history and characteristics, Defendant is 50 years old and has lived
15 in the Pacific Northwest his entire life, including significant portions of his life in
16 the District. Defendant has lived the past 6 years in Toppenish with his wife, to
17 whom he has been married for 14 years. Defendant has an employment history in
18 the District, including current employment at a local plastics company.

19 Defendant has some criminal history, and that history reveals Defendant
20 struggled in the past to appear for court proceedings as required. However, this

1 history and the attendant difficulty to appear for court proceedings is 20 years old
2 and is thus too remote in time to give the Court concerns about the risk of
3 nonappearance. Defendant has no criminal history for the last 20 years.
4 Moreover, Defendant has had no contact with law enforcement since the alleged
5 conduct approximately ten years ago.

6 The Court finds Defendant has rebutted the presumption of detention.

7 **IT IS ORDERED:**

- 8 1. The United States' Motion for Detention (**ECF No. 6**) is **DENIED**.
- 9 2. If a party desires this Court to reconsider conditions of release
10 because of material and newly discovered circumstances under 18 U.S.C.
11 § 3142(f), that party shall file a motion with the Court, served upon the United
12 States Attorney, stating what circumstances are new, how they are established, and
13 the requested change in conditions of release.
- 14 3. If a party seeks review of this Order by another court pursuant to 18
15 U.S.C. § 3145(a), counsel shall adhere to the Detention Order Review Protocol
16 found in LCrR 46(k).
- 17 4. Defendant is bound over to Judge Salvador Mendoza, Jr. for further
18 proceedings.
- 19 5. Defendant shall abide by the following conditions at all times:
20

STANDARD CONDITIONS OF RELEASE

1
2 1. Defendant shall not commit any offense in violation of federal, state
3 or local law. Defendant shall advise the supervising Pretrial Services Officer and
4 defense counsel within one business day of any charge, arrest, or contact with law
5 enforcement. Defendant shall not work for the United States government or any
6 federal or state law enforcement agency unless Defendant first notifies the
7 supervising Pretrial Services Officer in the captioned matter.

8 2. Defendant shall immediately advise the Court and the United States
9 Attorney in writing before any change in address.

10 3. Defendant shall appear at all proceedings and surrender as directed for
11 service of any sentence imposed.

12 4. Defendant shall sign and complete form A.O. 199C before being
13 released and shall reside at the address furnished.

14 5. Defendant shall not possess a firearm, destructive device, or any
15 dangerous weapons.

16 6. Defendant shall report to the U.S. Probation/Pretrial Services office
17 before or immediately after release and shall report as often as they direct, at such
18 times and in such manner as they direct.

19 7. Defendant shall contact defense counsel at least once a week.
20

1 8. Defendant is further advised it is unlawful for any person who is
2 under indictment for a crime punishable by imprisonment for a term exceeding one
3 year, to receive, ship, or transport in interstate or foreign commerce any firearm or
4 ammunition or receive any firearm or ammunition which has been shipped or
5 transported in interstate or foreign commerce.

6 9. Defendant shall refrain from use or unlawful possession of a narcotic
7 drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed
8 by a licensed medical practitioner in conformance with Federal law. Defendant
9 may not use or possess marijuana, regardless of whether Defendant has been
10 authorized medical marijuana under state law.

11 10. Defendant shall surrender any passport to Pretrial Services and shall
12 not apply for a new passport.

13 **SPECIAL CONDITIONS OF RELEASE**

14 1. Defendant shall remain in the Eastern District of Washington unless
15 given permission by the United States Probation/Pretrial Services Office.

16 2. Defendant shall notify the United States Probation/Pretrial Services
17 Office within 24 hours of any change in address, telephone number, or
18 employment.

1 3. Defendant shall avoid all contact, direct or indirect, with any persons
2 who Defendant would reasonably know are or may become a victim or potential
3 witness in the subject investigation or prosecution.

4 4. Defendant shall not be in the presence of minors.

5 5. Defendant shall not loiter within 500 feet of a school, childcare
6 facility, playground, park, athletic field or facility, or any other business or facility
7 having a principal purpose of caring for, educating, or entertaining minors.

8 6. Defendant shall maintain employment, or, if unemployed, actively
9 seek employment and/or maintain or commence an educational program.

10 7. Defendant shall submit to a mental health evaluation and undergo any
11 recommended mental health treatment as directed by the United States
12 Probation/Pretrial Services Office. Prior to commencing any evaluation or
13 treatment program, Defendant shall provide waivers of confidentiality permitting
14 the United States Probation/Pretrial Services Office and the treatment provider to
15 exchange, in any form and at any time, any and all diagnostic information,
16 treatment recommendation information, or compliance reports, or records related
17 to Defendant's conditions of release and supervision, and evaluation, treatment,
18 and performance in the program. It shall be the responsibility of defense counsel
19 to provide such waivers.
20

1 8. Defendant shall submit to a substance abuse evaluation and undergo
2 any recommended substance abuse treatment as directed by the United States
3 Probation/Pretrial Services Office. Prior to commencing any evaluation or
4 treatment program, Defendant shall provide waivers of confidentiality permitting
5 the United States Probation/Pretrial Services Office and the treatment provider to
6 exchange, in any form and at any time, any and all diagnostic information,
7 treatment recommendation information, or compliance reports, or records related
8 to Defendant's conditions of release and supervision, and evaluation, treatment,
9 and performance in the program. It shall be the responsibility of defense counsel
10 to provide such waivers.

11 9. Defendant shall abstain totally from the use of alcohol.

12 10. Defendant shall submit to random urinalysis and/or breathalyzer
13 testing as directed by the United States Probation/Pretrial Services Office.

14 11. Defendant shall refrain from obstructing or attempting to obstruct or
15 tamper, in any fashion, with the efficiency and accuracy of any prohibited
16 substance testing which is required as a condition of release.

17 12. GPS Location Monitoring: Defendant shall participate in a program of
18 GPS location monitoring. Defendant shall wear, at all times, a GPS device under
19 the supervision of United States Probation/Pretrial Services Office. In the event
20 Defendant does not respond to GPS monitoring or cannot be found, the United

1 States Probation/Pretrial Services Office shall notify the United States Marshals'
2 Service, who shall immediately find, arrest, and detain Defendant. Defendant shall
3 pay all or part of the cost of the program based upon ability to pay as determined
4 by the United States Probation/Pretrial Services Office.

5 13. Defendant shall abide by a geographic location monitoring boundary
6 around the local alleged victim's residence and place of employment. The
7 boundary area is to be determined by the United States Probation/Pretrial Services
8 Office. This does not apply to out of state alleged victims.

9 14. Defendant shall be released immediately and may report for work
10 after release. At **8:00 AM on September 3, 2021, or as directed by the**
11 **Probation/Pretrial Services Office, Defendant must report to the United States**
12 **Probation/Pretrial Services Office in Yakima for the GPS location monitoring**
13 **device to be affixed.**

14 DATED September 2, 2021.

15 s/Mary K. Dimke
16 MARY K. DIMKE
17 UNITED STATES MAGISTRATE JUDGE
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